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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,109	08/01/2000	Aaron K. Alexander	31042-13	.6028

7590

07/17/2003

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EXAMINER

ZERR, JOHN W

ART UNIT

PAPER NUMBER

³⁶⁴⁴
re
DATE MAILED: 07/17/2003

8-26-03

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/630,109

Applicant(s)

ALEXANDER ET AL.

Examiner

John W. Zerr

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2003 & 21 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the equilateral triangle configuration must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The examiner notes that Figures 2a and 2b show an isosceles, not equilateral triangle. No other drawings represent the claimed material.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 4-8, 19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Perry (USPT 6,349,711, cited by Applicant).

As to claim 4, Perry discloses a pneumatic gun for shooting a paintball, comprising: a gun body having a first (12), second (60) and third (housing 25) bores, said first second and third bores having respective first, second and third longitudinal axes, the first, second and third

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longitudinal axes being parallel to one another and spaced apart from one another, said first bore having a chamber (Fig 1); a bolt (14) being slidable within said first bore (Fig 1); a rod (56) for actuating said bolt, said rod being slidable with the second bore (Fig 1).

As to claim 5, Perry discloses a pneumatic paintball gun, comprising: a source of compressed air (inherent); a gun body having a bore (60) with an external opening (col 4 lines 35-39 Fig 1); a pneumatic assembly (30, 32, 66) in fluid communication with the source, the pneumatic assembly having a first member (58) slidably coupled to a second member (54), the pneumatic assembly being located within the bore; and a third member (62, endcap near 58) coupled to the bore and covering the opening (col 4 lines 35-39), the third member being externally accessible and repeatedly removable; wherein removal of the third member permits the pneumatic assembly to be removed from the bore, and the first member is retained by the second member after removal from the bore (Fig 2).

As to claim 6, the assembly is a ram (col 5 lines 45-65).

As to claim 7, the third member has a screw end and is threaded to couple the portions to the bore (col 4 lines 35-39).

As to claim 8, the pneumatic assembly is a cartridge valve because it is encased (Fig 2).

As to claim 19, Perry discloses a pin (15) that couples the bolt and rod and is slidably removable to uncouple the rod and bolt (Fig 1).

As to claim 21, Perry discloses a paintball gun (title) that inherently receives paintballs.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner, Jr. (USPT 5,967,133, cited by Applicant).

As to claim 1, Gardner discloses a pneumatic paintball gun, comprising: a gun body (40) having first (3), second (2) and third (1) bores formed at least partially therethrough (Fig 2); wherein the first, second and third bores have respective first, second and third longitudinal axes (Fig 3); wherein the first, second and third longitudinal axes are parallel to one another (Fig 3); and wherein lines drawn connecting the first, second and third axes in a plane perpendicularly intersecting the first, second and third axes form a triangle (Fig 2). The only difference between the claimed invention and Gardner is an exact equilateral triangle. This does not create a patentable distinction, however, because the exact spacing and alignment of the three bores is a matter of design choice where the specific alignment and spacing is not disclosed by applicant to be particularly critical to the invention. It is noted that the drawings supplied by applicant have been objected to because even they fail to even show the equilateral triangle configuration. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the bores of Gardner in an equilateral triangle configuration as a matter of design choice among many alternative equivalent configurations.

As to claim 3, the first bore (3) expels the paintball and is above the other two bores (Fig 2).

As to claim 15, the first bore includes a bolt (26), the second bore includes a slidable hammer (6a, 21) for releasing air into the first bore, and a rod (5) in the third bore functioning to allow air into the mechanism thus allowing the bolt to be actuated.

As to claim 16, Gardner discloses this feature as discussed for claim 4 above.

As to claim 18, Gardner discloses a pressure regulator as discussed above.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner in view of Perry. Gardner discloses all of the features of the invention except a slidable pin for coupling the rod and bolt. Perry discloses a pin coupling a rod and bolt in separate chambers as discussed above. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the Pin, rod and bolt as per Perry with the gun body of Gardner because it would allow ease of removal of the various parts for cleaning.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Gardner. Perry discloses all of the features of the invention except for the specific alignment of the three bores. This does not, however create a patentable distinction because whether or not the bores are aligned or in a triangle does not affect the functionality of the device and is merely a matter of design choice. One such design is shown by Gardner as discussed above. It would have been obvious to one having ordinary skill in the art at the time the invention was made to align the three bores of Perry in any number of different configurations depending on design choice for size, shape, compactness, balance or appearance including in the configuration of Gardner.

8. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Lotuaco, III (USPT 5,878,736, cited by applicant). Perry discloses all of the features of the invention except two separate pressure regulators for differing pressures (col 1 lines 32-39).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include two separate pressure regulators in the paintball gun of Gardner to allow differing pressures to be used for the different mechanisms of the gun.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John W. Zerr whose telephone number is (703) 306-0153. The examiner can normally be reached on M-Th. 8:00am-5:30pm, F 8:00am-4:30pm, alt. F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703) 306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

JWZ
July 14, 2003


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